



MEMORANDUM

Agenda Item No. 13(G)

TO: Honorable Chairperson Barbara Carey- Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: February 17, 2004

FROM:


George M. Burgess
County Manager

SUBJECT: Proposed Ordinance
Amending Chapter 8 of the
Code of Miami-Dade County

RECOMMENDATION

It is recommended that the Board adopt the attached proposed Ordinance amending Chapter 8 of the Code of Miami-Dade County.

BACKGROUND

The proposed Ordinance updates and significantly enhances the Building Code Compliance Office's ability to better serve Miami-Dade County's contractors and property owners in disciplinary proceeding brought before the Board of Rules and Appeals (BORA).

Under the current provision of Chapter 8, the Building Code Compliance Office is required to first present the complaint to a probable cause panel. The probable cause panel was originally formed to insure that only legitimate complaints were brought before BORA for formal hearings. This ordinance impedes the BORA's ability to bring expired building permit complaints to a conclusion in a timely fashion. Currently, the contractor receives two notices prior to expiration of the permit and a notice of violation after the permit has expired. After receiving three notices, BORA holds a meeting to determine whether probable cause exists to find a willful violation of Chapter 489 of the Florida Statutes. If BORA finds probable cause, it then holds a second hearing; a formal hearing, at a later date. This ordinance obviates the need for two hearings, by eliminating the requirement of a probable cause panel. Complaints other than expired building permits will continue to be brought before a BORA probable cause panel.

FISCAL IMPACT

There is no fiscal impact to Miami-Dade County or the municipalities.


Pedro Hernandez, P.E.
Assistant County Manager



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: February 17, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 13(G)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 13(G)
2-17-04

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 8-4(d)(4) OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA RELATING TO THE DISCIPLINE OF CONTRACTORS CERTIFIED OR REGISTERED TO OBTAIN PERMITS THROUGHOUT MIAMI-DADE COUNTY; CREATING PROVISION FOR PROBABLE CAUSE DETERMINATION UPON NOTICE OF EXPIRED PERMIT VIOLATION; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Board of Rules and Appeals has requested the process for disciplining contractors be streamlined to be more efficient; and

WHEREAS, the proposed changes would cause the disciplining process to proceed more efficiently,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 8-4(d)(4) of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 8-4. Board of Rules and Appeals.

* * *

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(d) *Powers and Duties of the Board*

* * *

- (4) The Board of Rules and Appeals shall be the local construction regulation board authorized and entitled to deny, suspend, revoke or condition the authority of contractors certified or registered to obtain permits throughout the incorporated and unincorporated area of Miami-Dade County, all in accordance with the provisions of Section 489.113(4)(b) of the Florida Statutes.

>>(i) For all expired permit violations as defined by the Florida Building Code Section 104.5, the building official may issue the contractor of record or permit holder a "Citation and Notice of Violation" which shall state the following:

- A. Date of issuance;
- B. Name of code enforcement officer and division or department issuing the notice;
- C. Name and address of the violator;
- D. Code section that has been violated;
- E. Brief description of the nature of the violation, including the location, date and time of the violation;
- F. Amount of the applicable civil penalty;
- G. Procedure for the person to follow to pay the civil penalty and correct the violation, or to contest the citation; and
- H. Date of formal hearing before the Board of Rules and Appeals.

The issuance of a Citation and Notice of Violation establishes that probable cause exists to support the requisite elements for suspension or revocation of permitting privileges as set forth in Section 489.113(4)(b) of the Florida Statutes. The Citation and Notice of Violation shall instruct the contractor to appear before the Board not sooner than twenty (20) days from the date of

service of the Citation and Notice to show cause why their permitting privileges should not be suspended or revoked. The Citation and Notice of Violation shall also instruct the contractor that, in lieu of a formal hearing before the Board, the contractor may correct the violation and pay the applicable fees to the Building Code Compliance Office, currently identified in Administrative Order 4-112.

- (ii) For all other violations of the Florida Building Code this Board is authorized to discipline pursuant to Section 489.113(4)(b) of the Florida Statute, the Chairman of the Board shall appoint a panel of at least three (3) Board members to serve as a probable cause panel in connection with those proceedings. The probable cause panel shall conduct a hearing pursuant to notice for the purpose of determining whether the report or complaint of the Secretary to the Board establishes that probable cause exists to support the requisite elements for suspension or revocation of permitting privileges as set forth in this section. If the probable cause panel finds no such cause, the case shall be dismissed without further action of the Board. If the probable cause panel finds cause, it shall instruct the secretary to notify the contractor to appear before the Board not sooner than twenty (20) days from the date of service of the letter to show cause why their permitting privileges should not be suspended or revoked.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

SRM

Stephanie R. Miller